United Nations CCPR/C/SR.2265

International Covenant on Civil and Political Rights

Distr.: General
16 May 2005

Original: English

Human Rights Committee

Eighty-third session

Summary record of the 2265th meeting
Held at Headquarters, New York, on Monday, 21 March 2005, at 3 p.m.

Chairperson: Ms. Chanet

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Second periodic report of Uzbekistan

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Chief, Official Records Editing Section, room DC2-750, 2 United Nations Plaza.

Any corrections to the record of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

05-27755 (E)

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Second periodic report of Uzbekistan (CCPR/C/83/L/UZB and CCPR/C/UZB/2004/2; HRI/CORE/1/Add.129)

1. *At the invitation of the Chairperson, the delegation of Uzbekistan took places at the Committee table.*

2. **Mr. Saidov** (Uzbekistan) said that his Government had taken a number of steps to implement the provisions of the Covenant. Over the past year Uzbekistan had become a party to over 60 international human rights instruments, including six United Nations treaties. Parliament had adopted over 50 laws regulating civil and political rights, a case in point being a new law broadening the scope of the Ombudsman. In fulfilment of the Vienna Declaration and Programme of Action, an institutional base for protecting civil and political rights had been established, including a parliamentary Ombudsman, a Constitutional Court and a National Centre for Human Rights. As part of the United Nations Decade for Human Rights, a human rights course had been introduced in all schools and universities. In the framework of the United Nations global information campaign, over 100 international legal texts on human rights had been translated into Uzbek.

3. Nevertheless, a range of problems continued to impinge on the state of human rights in Uzbekistan, mostly in relation to the justice system. Human rights mechanisms and procedures were only then being established; the notion of the rule of law was almost non-existent among law enforcement personnel; and the population had scant knowledge of human rights issues, a situation associated with the rapid changes that had occurred in the legal system since independence.

4. However, Uzbekistan was cooperating with various United Nations bodies in a number of areas. It had already presented six reports to United Nations treaty bodies. To date, Uzbekistan had implemented fully 18 of the 22 recommendations of the Commission on Human Rights Special Rapporteur on the question of torture, and was providing the Office of the United Nations High Commissioner for Human Rights with technical cooperation in the sphere of human rights in Central Asia.

5. A United Nations Development Programme (UNDP) human rights project for 2003-2006 was focused on increasing partnerships between the Government and non-governmental organizations. Activities over the previous year had included consultations between the main investigative body of the Ministry of the Interior and the human rights organization Freedom House, aimed at improving the dialogue between the Government and civil society, and a three-day symposium on the implementation of human rights instruments and programmes, as well as monitoring and training activities. The Ministry of the Interior had requested assistance from UNDP in providing human rights training for its staff, and 20 employees had thus far received training in such areas as international standards of arrest, detention, prevention of torture and investigative methods. Human rights libraries had been set up. Non-governmental organizations (NGOs) were also being encouraged to take up the cause of human rights, and their number currently totalled over 5,000, twice the figure in 2000.

6. With regard to the criminal justice system, a totally new concept of justice and the legal system was being implemented. Several new measures to ensure the independence of the courts had been introduced: courts specializing in criminal, civil and commercial matters had been established, and a democratic mechanism for selecting judicial personnel had been put in place. Judicial procedures were being streamlined and citizens were being afforded greater access to the courts. Classifications of crimes had been thoroughly revised and many categories of crimes were no longer punishable by incarceration. Prison conditions were being improved. The Government was preparing a habeas corpus bill, and intended to move towards abolishing the death penalty.

7. **The Chairperson** welcomed the large number of non-governmental organizations in attendance, especially those from Tashkent. She invited the delegation to address the list of issues (CCPR/C/83/L/UZB).

Constitutional and legal framework within which the Covenant is implemented. Right to an effective remedy (article 2 of the Covenant)

8. **Mr. Saidov** (Uzbekistan), referring to question 1 on the list of issues, said that in the criminal case involving Arsen Arutyunyan, the latter's prison sentence, which had begun in June 1999, had been reduced from 20 to 6 years. Following a Presidential Decree of 26 September 2003 on the liberalization of prison sentences for first-time offenders, Mr. Arutyunyan had been transferred to an ordinary-regime colony.

9. **Mr. Sharafutdinov** (Uzbekistan), referring to question 2, said that with regard to the 31 death penalty cases currently being reviewed by the Committee, in 15 cases the death sentence had been implemented before his Government had received the Committee's requests; in 7 cases the sentences had been commuted; and in 9 cases the death sentences had been suspended pending review of the appeals before the Presidential Pardon Commission.

10. Currently the death sentence was applicable to only two categories of crime — aggravated homicide and terrorism, which together constituted 0.7 per cent of all crimes. The death penalty was not applicable to women, juveniles and men over 60 years of age. Not even genocide was punishable by death, the maximum punishment being 10 to 20 years' deprivation of liberty.

11. Those condemned to death could receive monthly visits from relatives. Condemned persons could appeal for clemency and such requests were sent to the Presidential Pardon Commission for review. In January 2005 there had been discussions in Parliament on abolishing the death penalty and replacing it with long prison sentences.

Equality between the sexes and non-discrimination (articles 3 and 26 of the Covenant

12. **Mr. Saidov** (Uzbekistan), referring to question 3, said that gender equality was a top priority for his Government. Recent laws had set a 30 per cent quota for women candidates to Parliament. In the recent parliamentary elections, 162 out of 600 registered candidates had been women, a figure which surpassed the 30 per cent quota. The results of the 2004 elections showed a threefold increase in the percentage of women elected to Parliament as compared with 1994. The number of women in official positions was also increasing: the Deputy Chairman of the Senate, the Deputy Speaker of the lower house of Parliament, the Ombudsman, and the Deputy Prime Minister were all women. Every village, city and provincial administration had a deputy head, who was usually a woman. There had also been a dramatic increase in the number of women's non-governmental organizations.

13. Referring to question 4, he said that sexual assault against women and minors and various forms of sexual coercion, including trafficking, were punishable under the Criminal Code. The Government had established a committee to monitor the implementation of the Convention on the Elimination of All Forms of Discrimination against Women. Parliament was considering other laws to ensure gender equality.

14. Women's non-governmental organizations were helping to change attitudes towards women in society through gender research, outreach efforts and cooperation with international organizations.

Derogations (article 4 of the Covenant)

15. **Mr. Saidov** (Uzbekistan), referring to question 5, said that in the event of a declaration of a state of emergency, his Government would be guided by the following principles: humanism and the primacy of human life and health; transparency; timeliness and accuracy of information; and early warning and preventive measures.

16. Legislation adopted in 2000 governed civil defence procedures, the authority of State bodies and the rights of citizens during emergencies.

Right to life (article 6 of the Covenant); freedom from torture, treatment of prisoners and other detainees (articles 7 and 10 of the Covenant)

17. In response to question 6, **Mr. Sharafutdinov** (Uzbekistan) said that although the number of people who had been sentenced to death and the number of sentences carried out were a State secret in accordance with a 1994 government decree, he could describe general trends with respect to the death penalty. The number of death sentences carried out since the consideration of the initial periodic report had steadily decreased. In 2001 the number of death sentences carried out had decreased by 35.8 per cent from the previous year; in 2002 by 54.7 per cent; in 2003 by 17.9 per cent; and in 2004, by 53.1 per cent. Between 2000 and 2004 the number of death sentences carried

out had been reduced almost ninefold. Between 2002 and 2004, 32 persons on death row had had their sentences commuted.

18. In accordance with criminal procedure, any sentence or court decision must be based on relevant, substantiated and admissible evidence. The issues related to the requirements for such decisions had repeatedly been taken up by the Supreme Court, which had put forward appropriate recommendations that must be implemented by judicial bodies and law enforcement agencies involved in the discovery and investigation of crimes. In 2004, for example, the Supreme Court had adopted a decision on the application of the Code of Criminal Procedure stating that evidence obtained unlawfully or through coercion was inadmissible. The Ministry of Internal Affairs, the Procurator's Office and the National Security Service were all implementing that decision.

19. Concerning question 7, he said that in accordance with a government plan of action to implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment would allow appropriate information to be provided to the relatives of persons sentenced to death; relevant legislation would be transmitted to the legislative branch for consideration. Legislation on declassifying death penalty procedures would also be sent to Parliament. Parliament was still reviewing the issue of abolishing the death penalty.

20. **Mr. Saidov** (Uzbekistan) added that, based on the recommendations of the Committee, the law on State secrets was under review. Furthermore, under article 137 of the Code for the Execution of Criminal Penalties, persons sentenced to death had the right to visits by clergy members.

21. With respect to question 8, **Mr. Sharafutdinov** (Uzbekistan) said that cases of detainees who had died in custody were carefully investigated. Medical experts were appointed to determine the cause of death and appropriate action was taken as a result of the medical report. In addition to a mandatory investigation by the Procurator's Office, an official investigation was carried out by a special division of the Ministry of Internal Affairs and, where necessary, law enforcement experts were called in to assist in the investigation.

22. A special commission of inquiry established to investigate the prison deaths of Andrei Shelkovenko and Samandar Umarov in cooperation with independent foreign experts had concluded that no unwarranted methods had been applied to the detainees. Mr. Shelkovenko had died by hanging himself and Mr. Umarov had died of natural causes. Before the investigation was completed, the news media had reported that Shelkovenko was yet another victim of torture in Uzbekistan. The inquiry showed, however, that no torture had been involved in their deaths, and that had been reported by the foreign experts at a press conference. Human rights groups had also been actively involved in the investigation into the cause of Mr. Umarov's death and had expressed their views.

23. **Mr. Saidov** (Uzbekistan), referring to question 9, said that the new version of article 235 of the Criminal Code on penalties for the use of torture, which brought Uzbek legislation into line with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, had been effective. In 2004 there had been 330 complaints by citizens of abuse by law enforcement officials. Of those complaints, 79 had been confirmed and appropriate measures had been taken against the offenders. Fourteen of them had been convicted under section 235 of the Criminal Code of using torture. The Special Rapporteur's recommendation concerning torture by members of official bodies had been complied with, because all three branches of Government had condemned the use of torture. They included the President's adviser, the Ministry of Internal Affairs and the Procurator's Office.

24. Concerning question 10, **Mr. Sharafutdinov** (Uzbekistan) said that following the Special Rapporteur's visit to Uzbekistan, the latter's recommendations on the question of torture had been used as a basis for drafting human rights legislation and governmental decisions. The Cabinet of Ministers had subsequently adopted an action plan for 2004-2005 to implement the Convention against Torture. The plan incorporated all 22 recommendations of the Special Rapporteur. Several practical and organizational measures included in the plan had been implemented: the most prominent included amendments to article 235 of the Criminal Code with the addition of an article on the use of torture and other cruel, inhuman or degrading punishment. That article specified the penalties against officials, including investigators, interrogators, prosecutors and other law enforcement personnel, for any mistreatment of criminal suspects,

their family members or witnesses, aimed at eliciting information or confessions of a crime. The Code for the Execution of Criminal Penalties had also been amended to enhance the personal safety of convicted persons and procedures had been established for prisoners to appeal to the prison administration in the event that they were concerned about their safety.

25. State monitoring of the implementation of legislation against torture in places of detention and execution was carried out by the Procurator's Office. In order to ensure independent monitoring of prisons, legislation was planned to strengthen parliamentary oversight through the human rights Ombudsman. Furthermore, 90 doctors had been trained in detecting the use of torture and other forms of ill-treatment in prisons. Every detainee received full medical care and was examined for evidence of ill-treatment.

26. A presidential decree of March 2005 on reform and further liberalization of the legal and judicial system reflected the aforementioned plan of action to implement the Convention against Torture. The reform had five objectives. The first was regulating procedures for the detention of suspects and their placement in custody. Studies had shown that the majority of infringements on the law, including torture of detainees, occurred while suspects were held in custody and law enforcement officers attempted to obtain information or a confession. Therefore, the Ministry of Internal Affairs had issued an order in 2003 on provisional detention of suspects, guaranteeing a medical examination. In 2004, regulatory acts concerning law enforcement agencies had prohibited the detention of any suspect on the basis of false or uncorroborated evidence. Efforts were being made to raise the level of human rights awareness among law enforcement agencies through training and education, including a booklet on criminal procedure, published in cooperation with UNDP.

27. The second objective concerned criminal procedure, including the timely reading to persons under arrest of their rights, the provision of legal counsel and notification of the immediate family members of detainees. Those measures were also a substantial means of preventing the torture of detainees. In 2003, the Ministry of Internal Affairs, in conjunction with the Bar Association of Azerbaijan, had approved regulations to safeguard the right of defence of detainees, suspects and accused persons. The regulations provided for the strict round-the-clock availability of defence lawyers, which addressed the concern expressed by the Special Rapporteur about the need for independent counsel and the practice of having defence lawyers work hand in hand with the prosecution. They also established the opportunity for persons held in custody to obtain legal counsel within at least two hours of their arrest and procedures for their lawyers to lodge formal complaints of any violations during their detention. Most important, judicial oversight had been instituted over law enforcement bodies to protect the rights of detainees, which would serve as a system of checks and balances against coercive procedures.

28. The third objective was to ensure independent investigations of alleged ill-treatment by law enforcement agencies. Under the new procedures, any evidence of abuse was transmitted to the Procurator's Office for appropriate action. In cases involving the death of detainees, an investigation was carried out by the Procurator's Office, whose approval was required before any burial of the deceased or issuance of a death certificate was permitted. Any violations of the procedures were punishable by strict penalties. Therefore, claims that his Government did not undertake adequate investigations of torture allegations were unfounded.

29. Such independent investigations, however, were not yet regulated by law. Therefore, the investigations into the deaths of Mr. Shelkovenko and Mr. Umarov constituted precedents that were paving the way for the establishment of the relevant legislation. In December 2004, for example, the Ministry of Internal Affairs, together with the Ombudsman, had concluded an agreement on cooperation to ensure the monitoring of human rights and compliance with the law by the internal affairs agencies.

30. The fourth objective was to promote transparency in the law enforcement agencies. Unfortunately, insufficient attention had been paid to the issue in the past while Uzbekistan was striving to build a democracy, but his Government had begun to take steps towards involving civil society in monitoring the activities of law enforcement agencies, including the establishment of a "Rapid Reaction Group" to respond effectively to any violations reported by human rights activists.

31. The fifth objective was to raise the level of human rights awareness among law enforcement

agencies. Special attention had been given to testing officials in that respect and to providing further training for senior officials. Efforts were also under way to establish a certification procedure for the heads of the internal affairs agencies with regard to their knowledge of human rights and the law.

32. To achieve the goals set forth by the Special Rapporteur would require providing education for the law enforcement agencies so that every officer would recognize the need to comply with the law and respect human rights. In other words, there was an urgent need to change ways of thinking, without which reform would be impossible.

33. Referring to question 11, **Mr. Saidov** (Uzbekistan) said that extradition, expulsion and return were regulated by bilateral agreements, usually judicial assistance treaties, that Uzbekistan had concluded with other States. Any extradition must be in keeping with the legislation of both parties to the agreement and must involve a crime punishable in both States by imprisonment of one year or more. Extradition could be refused if the person in question was a citizen of Uzbekistan or had been granted asylum there; if the request for extradition was based merely on an individual victim's claim against the person concerned; if the prosecution of the crime or the imposition of the sentence in question was time-barred; if the request would involve an instance of double jeopardy; or if the crime had been committed by a national of the other State in the territory of Uzbekistan. Extradition could certainly be refused if there was a serious possibility that the person in question would be tortured in the requesting State; as indicated in the report, there was no law on the matter, but the relevant norms of international law could be invoked.

34. With regard to question 12 on conditions of detention, the Government had sent copies of the United Nations Standard Minimum Rules for the Treatment of Prisoners to all penal institutions. Food rations in prison were regulated by a 2002 Cabinet of Ministers decision, and they varied according to the age of the prisoner, the seriousness of the crime committed and other considerations. A minimum of 2,000 calories daily was standard, but prisoners could receive more on medical grounds.

35. There had been a liberalization of the rules governing the payment detainees received for work performed in prison and their right to family visits, parcels and telephone calls. A presidential decree had liberalized the rules for sentencing first-time offenders to prison, cutting the number of arrests in half since 1999, and had also revised the Criminal Code by classifying a number of crimes more leniently, thus easing the sentences of about 6,000 convicts and transferring thousands to less harsh institutions, or releasing them altogether. While the number of some petty crimes had increased, there had been an overall decline in serious crime in the country.

36. Eighty per cent of detainees were being paid close to the minimum wage for doing useful work while serving their sentences. Since 1999, conditions in the prisons had been inspected by representatives of the Oliy Majlis, or Parliament, and by national non-governmental organizations. Uzbekistan now had one of the most transparent penitentiary systems in the world: all prisons were open for both national and international inspection — not the case years earlier — and, indeed, since 2001 the International Committee of the Red Cross had made repeated visits, as had representatives of the European Parliament, several European Governments, the United States of America, the Islamic Republic of Iran and Turkey and also correspondents from the major United States and European press agencies.

37. Jaslyk prison in Karakalpakstan — which like the whole Central Asian region was still suffering from the Aral Sea tragedy and regularly experienced extremes of heat and cold — had been visited by the United States Ambassador accompanied by a Freedom House representative, and by the Independent Expert of the Commission on Human Rights on the situation of human rights in Uzbekistan. Moreover, a national commission had been set up composed of representatives of the Procurator's Office, the Ombudsman, the National Centre for Human Rights and the Ministry of Internal Affairs, to inspect conditions there first-hand and to identify any instances of torture or ill-treatment. It had been determined that the prison met international requirements for space, food and medical services. Road access to Jaslyk was being improved, and the Government was planning to expand hospital facilities, build hotel-type accommodations for long family visits, provide a well-stocked library and athletic fields, and offer training for individual activities.

Security of the person and protection from arbitrary arrest (article 9 of the Covenant)

38. **Mr. Sharafutdinov** (Uzbekistan), referring to questions 13 and 14 on the list of issues, said that pursuant to the National Plan of Action to Combat Torture, the Ministry of Justice was currently considering a draft regulation that would improve the conditions of police custody and pre-trial detention, and the President himself had urged Parliament in January 2005 to revise the legal provisions governing the holding of suspects to give the courts greater control of pre-trial procedures.

39. The National Centre for Human Rights had been considering the institution of habeas corpus since 2003 and, following an Organization for Security and Cooperation in Europe/UNDP/United States Lawyers Association round table on legal reform, proposals had been made to the Ministry of Justice for the introduction of habeas corpus and the revision of the Criminal Code to bring it into line with international standards, including those of the Covenant. In 2004, the Ministry had put out a report on the issue and set up a working group, of which he himself was a member, to propose legal reforms and strengthen court control over investigations and over the Procurator's Office. The group had agreed that suspects should not be held in custody for as long as 72 hours, and he himself was a proponent of the British system of a 24-hour time limit with a possible 12-hour extension. The working group had prepared a draft proposal and was now working on the financial implications of the proposed changes before its submission to Parliament. The application of habeas corpus alone would require overhauling the court system, because it would require many more judges than the 1 per 25,000 inhabitants currently in place.

40. Non-governmental organizations had been actively involved from the outset in making proposals to improve the rules and reform the court system in general, and all citizens interested in those human rights questions could make their voices heard.

41. **Mr. Saidov** (Uzbekistan) said, regarding the ongoing debate about removing the entire penitentiary system from the control of the Ministry of Internal Affairs, that some in the Government had argued for making no change, others for its transfer to the Ministry of Justice, and others for putting the system under the direct control of the Cabinet of Ministers because prison issues related to employment as well as the administration of justice. The legal and financial aspects had to be considered along with the need to train law enforcement officials in new procedures.

42. **The Chairperson** invited the members of the Committee to ask questions on the replies to the first part of the list of issues.

43. **Mr. Wieruszewski**, observing that the report was timely and much richer than Uzbekistan's initial report, welcomed the statement that non-governmental organizations were free to speak out on humanitarian issues. With regard to question 1 on the list of issues, he noted that the delegation had failed to say anything about the procedures in place for the implementation of the Committee's Views under the Optional Protocol. So far, the Committee had ruled on three cases involving Uzbekistan, and it was unclear who in the Government made the decisions on compliance with Views. A reply had been received on the *Nazarov* case; that very day, the Government had given a delayed response to the Committee's ruling in the *Arutyunyan* case: and as yet no reply had been received on the *Hudayberganova* case. The Government's reply on Mr. Arutyunyan, however, made no reference to the Committee's recommendation for a further reduction of his term of imprisonment and for compensation to be paid, and it was unsatisfactory.

44. With regard to question 2, it was a very serious breach of Uzbekistan's obligations under the Optional Protocol to have executed many of the death-row prisoners who had petitioned the Committee — at least 15 per cent of them, by the delegation's own account. The Committee had called strongly for interim measures of protection for all of them. Fortunately the Government now seemed to be taking the matter more seriously and had apparently granted a stay of execution in the case of nine of the remaining petitioners. He asked the delegation to confirm, however, that Mr. Tolipkhuzhaev specifically had received a stay, since the Committee had received an unconfirmed NGO report that the petitioner had in fact been executed in early March 2005. To continue carrying out such executions would seriously undermine the credibility of the State party and its oral assertions about compliance with international norms.

45. It had been encouraging to hear the improvements made in connection with questions 3 and 4 on women's rights, but domestic violence, for social

and cultural reasons, still seemed to be a problem. He wondered if the Government kept official statistics on violence against women, because the failure to do so would hamper any effort to improve the situation; if it was working to develop services for victims of violence and trafficking; if it had taken an official position criminalizing polygamy, a clear violation of article 3 of the Covenant, and had done anything to equalize the marriage age for men and women; and if it was doing anything to punish those guilty of rape and other sexual crimes, who appeared still to enjoy impunity. Also, he asked if the Government had done anything to revise article 120 of its Criminal Code, which criminalized homosexuality and had been the basis for many prosecutions, in clear violation of article 26 of the Covenant, which protected against discrimination on the grounds of sex.

46. **Sir Nigel Rodley** said that he wished to know precisely what information was being given to the families of persons sentenced to death, how far that practice had developed and how much remained to be done. It was unclear whether the State party was taking steps to inform both condemned persons and their families about the exact date of execution and place of burial, as it had been requested to do. The Committee had made it very clear at the last review that the failure to inform condemned persons and their families properly was a violation of the Covenant, particularly article 7.

47. As for the State party's claim that 18 of the 22 recommendations made by the Special Rapporteur on the question of torture had been fully implemented, he was curious to know which four recommendations had not, in its view, been fully implemented. Moreover, he doubted that two recommendations specifically mentioned by the State party had been fully implemented, as claimed. For example, a statement by a presidential adviser to diplomats and foreign journalists did not, in his view, constitute the kind of high-level statement publicly condemning torture in all its forms that had been recommended by the Special Rapporteur; it seemed to be aimed at keeping people outside the country happy, rather than sending a strong message to judicial and law enforcement officials inside the country. In addition, although the President had promised to make such a statement at a meeting of the European Bank for Reconstruction and Development in 2003, he had failed to do so. Lastly, despite the Special Rapporteur's recommendation that the definition of torture adopted should be fully consistent with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the actual definition was so far removed from the Convention that the Supreme Court had been required to state that it would be enforced in accordance with the Convention.

48. He welcomed the information that lawyers were now present during investigations and that denial of access to legal counsel was severely punished. However, he wished to know whether any measures had been taken against investigators in the cases of Mr. Shelkovenko and Mr. Karimov, both of whom had been held for over 50 days without access to legal counsel. The Committee had specifically requested statistics on investigations and prosecutions in respect of ill-treatment by State officials. In view of the State party's comment that training was still required, he wished to know what measures had been taken in that regard. While he welcomed the State party's decision to seek external assistance in investigating suspicious deaths in detention, particularly in view of its lack of resources, the Committee wished to know exactly how many such deaths had been investigated by outside experts. In particular, the State party should clarify whether all the cases brought to the Committee's attention had been investigated, or only the two mentioned. Lastly, he wished to know when the legislation on the establishment of habeas corpus, which the President had submitted to Parliament in January 2005, would enter into force.

49. **Mr. Kälin**, while acknowledging that progress had been made in reducing the number of detainees, redefining serious offences and declaring that confessions obtained by torture were inadmissible, said there still seemed to be a gap between the picture painted by the State party and the situation on the ground, as reported by NGOs, United Nations special procedures and the media. He reiterated that the execution of 15 people in relation to whom the Committee had issued interim protection measures was a serious violation of the State party's international obligations. Such measures had nothing to do with the granting of clemency or a moratorium on the death penalty. Article 1 of the Optional Protocol clearly stated that a State party to the Optional Protocol recognized the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction. The Committee could not consider

communications if the individual concerned was no longer alive. Other human rights courts and the International Court of Justice had taken a similar approach, indicating that interim protection measures were binding and that non-observation of such measures was a serious violation of international law.

50. He had taken note of the State party's legislative provisions regarding emergencies and civil defence; nonetheless, the State party had not answered the question regarding the non-derogable nature of the rights listed in article 4, paragraph 2, of the Covenant. Moreover, article 93, paragraph 15, of the Constitution on the declaration of states of emergency made no reference to article 4. He asked the State party to specify how domestic legislation guaranteed that requirement in the event of a state of emergency.

51. In its reply concerning expulsion, return or extradition to States where there was compelling evidence to suggest that a person might be tortured, the State party had basically reiterated what was in the report, whereas the Committee had asked whether the State party intended to adopt new regulations explicitly prohibiting such measures.

52. While welcoming the State party's detailed reply concerning prison conditions, he would appreciate further clarification concerning its worrying statement that food rations could be significantly reduced for persons accused of serious offences.

53. **Ms. Wedgwood** welcomed the fact that the delegation comprised high-ranking government officials, as that would ensure that the Committee's comments were not overlooked in the process of transmittal. She was, however, puzzled by the State party's reluctance to provide statistics on the number of death sentences carried out, as requested by the Committee, and failed to understand why such statistics were a State secret. In the light of the new legislation and the reduction in the number of capital offences, she wondered whether any persons convicted under the old legislation had been given more liberal sentences.

54. With regard to the length of time that a suspect could be held in custody without access to counsel, she reiterated that the longer a person was hidden from public view, the greater the temptation to apply excess force, hence the reason for the 24-hour rule. She wondered whether the State party had taken any steps to discourage the mistreatment of detainees; in particular, had it transferred or suspended any public officials indicted for abuse or torture, as recommended by the Special Rapporteur? Did it allow the Ombudsman round-the-clock access to detention centres? Was a prosecutor on duty to monitor the behaviour of law enforcement authorities? The State party should also provide information on the number of persons prosecuted for torture and the number of victims awarded civil damages.

55. As for the intention to enact a law establishing habeas corpus, she wondered why it was not possible to follow the example of the United Kingdom and Israel and impute habeas corpus through an interpretation of existing administrative law, thereby removing the need for a separate statute. She was particularly concerned at the State party's comment that it would not be able to afford habeas corpus until it had additional resources, as that could take a long time. She was also concerned about reports from human rights groups that people incarcerated on mental health grounds had initially been arrested for being political dissidents; she asked whether people arrested on mental health grounds had any way of challenging their incarceration or whether they, too, had to wait for a habeas corpus statute. Lastly, she would be grateful for information as to whether someone could be arrested without a warrant in Uzbekistan and, if so, whether any steps had been taken to minimize such occurrences.

56. Lastly, she was concerned about the reference to incarceration regimes. While she understood that prison conditions varied depending on the threat posed by inmates, it was unacceptable for prisons to deliberately maintain poor conditions for punitive purposes, as seemed to be the case in Uzbekistan.

57. **Mr. Shearer** said that he, too, wished to know exactly how many executions had been carried out. It seemed extraordinary that such matters were considered a State secret when plenty of other information was available. Keeping such information secret amounted to a total lack of transparency and would prevent people both inside and outside the country from seeing that progress was being made. Such lack of transparency applied to other areas too; for instance, he would appreciate more precise information concerning the efforts of the judicial authorities to draw up rules, instructions, methods and practices for conducting investigations, and whether any concrete proposals had been made towards

abolishing the death penalty, which the Government was reported to be considering.

58. It was his understanding that the considerable number of girls under 18 years of age who were marrying out of economic necessity did so not under domestic law but under Sharia law. He wondered what steps the Government was taking to address the discrepancy between the two types of law.

59. Lastly, he wished to know how the State party planned to address the reports concerning the negative consequences of the criminalization of homosexuality under Uzbek law, including potential extortion by State authorities and private individuals.

The meeting rose at 6 p.m.